

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

KEITH G. SMITH,

Case No. 3:14-cv-00029-MMD-VPC

1

Petitioner,

ORDER

ROBERT LeGRAND, et al.,

Respondents.

Before the court are the amended petition for writ of habeas corpus (ECF No. 15), respondents' motion for a more definite statement (ECF No. 24), petitioner's opposition (ECF No. 25), and respondent's reply (ECF No. 26). The court denies the motion.

Respondents argue that petitioner has not alleged any case law in support of grounds 1 through 4 and 6(f). The allegations in grounds 1 through 4 are largely the same as the allegations in issues II through V on direct appeal. See Ex. 29, at 14-41 (ECF No. 16-29, at 25-52).¹ The allegations in ground 6(f), which respondents call ground 9 for unknown reasons, are largely the same as the allegations in issue V on the appeal from the second denial of petitioner's state habeas corpus petition. See Ex. 67, at 20-23 (ECF No. 17-36, at 26-29). The Nevada Supreme Court was able to decide that issue on its merits. Petitioner does not need to cite to court decisions in the petition, and the factual

¹The orders of presentation on direct appeal and in the amended petition are different.

1 allegations in these grounds satisfy the requirements of Rule 2 of the Rules Governing
2 Section 2254 Cases in the United States District Courts. The court will be able to
3 determine whether the Nevada Supreme Court's decision is due the deference of 28
4 U.S.C. § 2254(d)(1).

5 Respondents also argue that ground 7, a claim of ineffective assistance of trial
6 counsel, is unclear because of the incorporation statement at the start of the ground.
7 Petitioner has clarified the ground. Opposition, at 7 (ECF No. 25).

8 It is therefore ordered that respondents' motion for a more definite statement
9 (ECF No. 24) is denied.

10 It is further ordered that respondents will have forty-five (45) days from the date
11 of entry of this order to file and serve an answer, which must comply with Rule 5 of the
12 Rules Governing Section 2254 Cases in the United States District Courts. Petitioner will
13 have forty-five (45) days from the date on which the answer is served to file a reply.

14 DATED THIS 2nd day of September 2016.



15
16 MIRANDA M. DU
17 UNITED STATES DISTRICT JUDGE
18
19
20
21
22
23
24
25
26
27
28